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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,540	01/16/2002	Gavriel J. Iddan	P-2752-US	1800
49443	7590	06/16/2006		
PEARL COHEN ZEDEK, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036			EXAMINER FOREMAN, JONATHAN M	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,540

Applicant(s)

IDDAN, GAVRIEL J.

Examiner

Jonathan ML Foreman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 72-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 72-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/8/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/18/06 has been entered.

Information Disclosure Statement

The information disclosure statement filed 5/8/06 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 72 – 77 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In regards to claim 72, the specification has failed to disclose admitting a sample through a channel to an interaction chamber. Applicant has pointed to Figure 2 in order to show support for a channel extending from opening 38' to a membrane 33. However, the specification describes no such channel, only an interaction chamber. Page 13, lines 8 – 10 state, "The interaction chamber 38 is

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open to the GI tract environment, such that GI tract fluids 37 can enter the interaction chamber 38 through opening 38', leading one to believe the opening leads directly to the interaction chamber.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 72 – 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/53792 A2 to Given Imaging Ltd. in view of U.S. Patent No. 6,330,464 to Colvin, Jr. et al.

In regards to claims 72 – 76, Given Imaging Ltd. discloses a method for determining body lumen conditions including: admitting an endo-luminal sample on an interaction surface (54), the surface includes an indicator for reacting with an endo-luminal sample (Page 11, line 32 – Page 12, line 2), the imager and interaction surface are considered to be positioned behind an optical window in that the optical window (53) extends to the left of both the interaction surface (52) and the imager (55) (Figures 7 and 8). Given Imaging Ltd. discloses illuminating the interaction surface and imaging optical changes in the interaction surface with an optical system (Page 11, line 29 – Page 12, line 3). The interaction surface is transparent in the wavelength of illumination (Page 11, line 30). Given Imaging Ltd. discloses transmitting the video signals and a receiving system for receiving the video signals (Page 11, line 26). However, Given Imaging Ltd fails to disclose the interaction surface being an interaction chamber and admitting the sample through a channel to the interaction chamber. Colvin, Jr. et al. discloses an autonomous device for determining in vivo condition. Colvin, Jr. et al. teaches the device having an indicator located within an interaction chamber. A membrane seals

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each chamber that selectively enables passage of a sample but not of the indicator (Col. 6, lines 51 – 56). The examiner considers the pores through which the sample passes as a channel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the interaction surface as disclosed by Given Imaging Ltd. to include an interaction chamber and channel as taught by Colvin, Jr. et al. in order to help protect the indicator while in use (Col. 25, lines 50 – 61).

Response to Arguments

6. Applicant's arguments filed 5/1/06 have been fully considered but they are not persuasive. Applicant asserts that Given Imaging Ltd. nor Colvin, Jr. alone or in combination, teach or suggest, “admitting an endo-luminal sample through a channel to an interaction chamber”. However, the Examiner disagrees. The selectively impermeable membrane as disclosed by Colvin, Jr. must include at least one channel which allows for the admission of an endo-luminal sample into the interaction chamber.

Conclusion

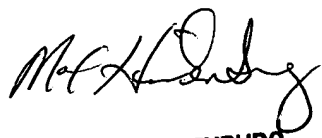
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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